

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

FRED L. PLUMP,)	
)	
Plaintiff,)	
)	
v.)	No. 2:07-cv-01014-MEF-CSC
)	
BOB RILEY, Governor,)	
)	
Defendant.)	

GOVERNOR RILEY'S NOTICE OF FILING

Governor Bob Riley, defendant in this action, respectfully gives notice that the attached facsimile has been transmitted today to the United States Department of Justice.

Respectfully submitted,

Of counsel:

Kenneth D. Wallis, II (WAL064)
Chief Legal Advisor
Office of the Governor

Scott L. Rouse (ROU010)
Deputy Legal Advisor
Office of the Governor

ADDRESS OF COUNSEL:

Office of the Governor
State Capitol, Suite NB-05
600 Dexter Avenue
Montgomery, Alabama 36130
(334) 242-7120 Phone
(334) 242-2335 Fax

ken.wallis@governor.state.al.us
scott.rouse@governor.alabama.gov

**Troy King (KIN047)
Attorney General**

s/ Misty S. Fairbanks
Margaret L. Fleming (FLE001)
James W. Davis (DAV103)
Misty S. Fairbanks (FAI005)
Assistant Attorneys General

OFFICE OF THE ATTORNEY GENERAL
STATE OF ALABAMA
11 South Union Street
Montgomery, Alabama 36130
Telephone: (334) 242-7300
Facsimile: (334) 353-8440
mfleming@ago.state.al.us
jimdavis@ago.state.al.us
mfairbanks@ago.state.al.us

Counsel for the Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of April, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel: Edward Still, Edward Still Law Firm LLC (docket@votelaw.com), and James U. Blacksher (jblacksher@ns.sympatico.ca).

s/ Misty S. Fairbanks
Misty S. Fairbanks (FAI005)



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

April 17, 2008

via facsimile to (202) 616-9514

Chief, Voting Section
Civil Rights Division
Room 7254 - NWB
Department of Justice
1800 G St., N.W.
Washington, DC 20006

RE: File No. 2008-1576
ATTN: Tim Mellet and Don Jacobson

Dear Sir:

As a direct result of an adverse decision by a federal court, the State of Alabama submitted for preclearance certain changes concerning the filling of vacancies on the Jefferson County Commission. Due to the pending litigation, the State requested expedited consideration and a preclearance determination by April 21, 2008. The three-judge district court has entered an order on Governor Riley's motion for a stay pending appeal. This order impacts the request for expedited preclearance, and accordingly is submitted for your information.

Additionally, Governor Riley is preparing an application for stay to be filed in the United States Supreme Court. If the Department is able to represent when a determination will be made, that information would be helpful to have. If Justice Thomas (or the Court) grants the stay application, and if the submission is still pending, we will, of course, notify you.

Finally, if any comments have been filed on the submission, the State hereby requests a copy of those comments.

Thank you for your kind attention to this important matter. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Misty S. Fairbanks". The signature is fluid and cursive.

Misty S. Fairbanks
Assistant Attorney General

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

FRED L. PLUMP,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	2:07cv1014-MEF
)	(WO)
HONORABLE BOB RILEY, as)	
Governor of the State of)	
Alabama,)	
)	
Defendant.)	

Before Rosemary Barkett, Circuit Judge, Mark E. Fuller, Chief District Judge, and W. Harold Albritton, District Judge.

ORDER

This cause is before the court on the Defendant's Motion to Stay Pending Appeal, filed April 8, 2008 (Doc. #42).

The Defendant argues that because the Alabama Supreme Court has enjoined the certification of the election results of a special election held for the seat on Jefferson County Commission currently held by George Bowman, absent a stay in this case pending Governor Riley's appeal, or expedited preclearance from the United States Department of Justice, if the Jefferson County Commission seat held by George Bowman is vacated on April 21, 2008 pursuant to this court's Amended Judgment, the Jefferson County Commission seat will be vacant until this case is finally resolved. The Defendant, therefore, seeks a stay of this court's Amended Judgment until resolution of the appeal in this case.

The Plaintiff in response expresses doubt that any appeal of this case can be considered in

this term of the Supreme Court of the United States. If the case were to be considered in the next term, any stay in this case pending appeal would extend at least until October 2008.

The United States Attorney General has 60 days in which to notify a submitting authority of a decision to object or to interpose no objection to a submitted change affecting voting. 28 C.F.R. §§ 51.9, 51.41, 51.44. The preclearance submission, which requested expedited review, was delivered to the United States Department of Justice on March 20, 2008. Sixty days from the submission date has not yet elapsed. Accordingly, for good cause shown it is hereby ORDERED as follows:

1. The Motion for Stay Pending Appeal (Doc. #42) is DENIED.
2. The Amended Judgment entered in this case is STAYED until the earlier of sixty days from the date of the preclearance submission, or the date of the written response by the Attorney General to preclearance submission. If at the end of 60 days from the date of the preclearance submission, the Attorney General should fail to make a determination as to preclearance, but instead seeks additional information, the court will entertain a request for an additional stay at that time.

Done this 16th day of April, 2008.

/s/ Rosemary Barkett
UNITED STATES CIRCUIT JUDGE

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE

/s/ W. Harold Albritton
SENIOR UNITED STATES DISTRICT JUDGE